



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 27 2003

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED

Certified Mail Receipt No. 7003 2260 0005 1961 0011

In Reply Refer to:

EPA File No. 09R-02-R6

Ron Curry
Secretary
New Mexico Environment Department
P.O. Box 26110
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87502

Re: ACCEPTANCE OF ADMINISTRATIVE COMPLAINT

Dear Secretary Curry:

This is to notify the New Mexico Environment Department (NMED) that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is accepting for investigation a September 12, 2002, administrative complaint that was filed against NMED by Citizens for Alternatives to Radioactive Dumping (CARD). The complaint alleges that NMED has violated Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, (Title VI) and EPA's Title VI implementing regulations at 40 C.F.R. Part 7. A copy of the complaint is enclosed. As explained below, complainant's allegations meet the jurisdictional requirements for acceptance of an administrative complaint.

Under Title VI, a recipient of Federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI implementing regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's Title VI regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's Title VI regulations

(i.e., an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120. Fourth, because EPA Title VI regulations only apply to applicants and recipients of EPA assistance, the complaint must be against an applicant for, or a recipient of, EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

The complaint meets the jurisdictional requirements in EPA's Title VI implementation regulations. First, the complaint is in writing. Second, the complaint alleges discrimination based on race, color, or national origin, that if true, would be in violation of Title VI. Third, the complaint was dated September 12, 2002, 178 days after NMED issued the permit to Gandy-Marley, Inc., for a landfill on March 18, 2002. And fourth, the complaint has been filed against NMED, which receives financial assistance from EPA. Therefore, the complaint meets the jurisdictional requirements for acceptance of an administrative complaint and OCR is accepting the complaint for investigation.

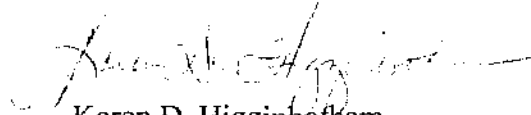
According to the complaint, NMED discriminated against Spanish-speaking residents "in the general area of the proposed GMI [Gandy-Marley, Inc.] facility" by (1) permitting GMI on March 18, 2002, without ever having required or performed a scientific investigation into possible disparate impacts on the nearby residents who are already overburdened with effects from facilities, and (2) conducting the entire permitting process in a manner hostile to Spanish-speaking residents so as to discourage and effectively prevent the participation of Spanish-speaking residents in the permitting process.

The complaint also alleges a statewide pattern and practice of similar discriminatory permitting and public participation in the permitting process.

Pursuant to EPA's Title VI regulations, NMED may either respond to the complaint in writing within 30 calendar days of receiving this notice, or wait until OCR notifies NMED of any preliminary findings of noncompliance. Additionally, EPA's Title VI regulations provide that OCR must attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR will discuss, at any point during the process, offers to informally resolve the complaint, and will, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders.

If you have any questions, please contact Mike Mattheisen in OCR by telephone at 202-343-9678, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., NW, Washington, D.C., 20460-1000.

Sincerely,



Karen D. Higginbotham
Director

Enclosure

cc: Deborah Reade, Research Director
Citizens for Alternatives to Radioactive Dumping
117 Duran Street
Santa Fe, New Mexico 87501

Stephen G. Pressman, Associate General Counsel
Civil Rights Law Office (MC 2399A)

Sherry Brown-Wilson, Title VI Coordinator
EPA Region 6